

PATENT  
09/785,757

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: : Group Art Unit: 3628  
: Examiner N. B. Nyugen  
Joshua Dickinson Kraft : Customer No. 46,242

Serial No: 09/785,757 :  
Filed: 02/20/2001 :  
Title: PORTABLE AUDIO SYSTEM :  
HOUSING A PRELOADED PURCHASER :  
SELECTED LIBRARY OF MP3 :  
COMPRESSED MUSIC TITLES :  
STORED ON A HARD DISK DRIVE :  
Date: 6/30/07 :

Mail Stop PETITION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

RENEWED PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Sir:

This is in response to the Decision on Petition mailed  
June 26, 2007.

**PETITIONER HEREBY RENEWS THE PETITION FOR REVIVAL OF  
THIS APPLICATION**

The Decision indicated that it was based upon the  
failure of the original Petition to include (1) the required  
reply.

The attachments hereto includes on handmarked pages -6-  
and -7-, a copy of a Request for Continued Examination (RCE)  
dated November 28, 2006 and a copy a check (#3461)

JDK002

PATENT  
09/785,757

previously sent and cashed by the USPTO. This RCE was the (1) required reply which appears to be missing; it is a reply to Office Action mailed February 13, 2006.


A copy of the Amendment alleged to have been filed on February 13, 2006 but never received in the USPTO is attached on pages -8- through -13-, with the request that it be made part of the of the above referenced RCE.

(Please note that to facilitate references the attachments, they have been handmarked.)

A copy of the original Petition, copy of fee check, and statement that the delay was unintentional are submitted as handmarked pages -1- through -5-.

It is submitted that the requirement for an appropriate reply to the Office Action of February 13, 2006 is satisfied.

Respectfully submitted,

  
J. B. Kraft  
Attorney for Applicant  
Registration No. 19,226  
(512) 473-2303

PLEASE MAIL ALL CORRESPONDENCE TO:

J. B. Kraft  
710 Colorado St., 5C  
Austin, Texas 78701

-1-

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

**JDK 2000-002**

First named inventor: **Joshua D. Kraft**

Application No.: **09/785,757**

Art Unit: **3628**

Filed: **02/20/2001**

Examiner: **NGA B. NGUYEN**

Title: **Portable Audio System Housing a Reloaded  
Purchaser Selected Library of MP3 Compressed  
Music Titles Stored on a Hard Disc.**

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or  
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration  
date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☒ Small entity-fee \$ **750** (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27. **CHECK**

☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in **EXAMINATION (RCE)**  
the form of **REQUEST FOR CONTINUATION** (identify type of reply):

☐ has been filed previously on \_\_\_\_\_  
☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_

☐ has been paid previously on \_\_\_\_\_  
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the  
USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to  
complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any  
comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer,  
U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED  
FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

SN 09/785,757

-2-

PTO/SB/84 (09-06)

Approved for use through 03/31/2007. OMB 0851-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).] **SEE ATTACHED STATEMENT**

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

J. B. KRAFT  
Signature

11/28/06  
Date

J. B. KRAFT, Attorney  
Typed or printed name

19,226

710 Colorado ST. #5C  
Address

Registration Number, if applicable  
(572) 473-2503  
(522) 567-4732  
Telephone Number

AUSTIN TX. 78701  
Address

Enclosures: ☒ Fee Payment☒ Reply **RCE Form**☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☐ Other: \_\_\_\_\_

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

December 3, 2006  
Date

J. B. KRAFT  
Signature  
J. B. KRAFT  
Typed or printed name of person signing certificate

J. B. KRAFT 12-96  
ATTORNEY  
710 COLORADO ST. SUITE 5C  
AUSTIN, TX 78701

3537

Date Dec. 3, 2006

35-2/1130 TX  
2254

Pay to the  
Order of

Commissioner for Patents \$ 750.00  
Seven hundred and fifty Dollars

Bank of America

Premier Banking

ACH RT 111000025

(JDK 002)

For SN: 09/785,757 Petition Revival

⑆ 113000023⑆ 002142716702⑆ 3537

Received in US Patent Office  
SN: 09/785,757  
Petition for Revival  
Check No. 3537 Revival Pet. Fee  
for \$750  
Request for Continued Examination  
(RCE)



Pike Expedition, November 1806, Rocky Mountains

J. B. KRAFT  
710 Colorado St #5c  
Austin Tx. 78701

PATENT  
09/785,757

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: : Group Art Unit: 3628  
: Examiner N. B. Nyugen  
Joshua Dickinson Kraft : Customer No. 46,242  
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COMPRESSED MUSIC TITLES :  
STORED ON A HARD DISK DRIVE :  
Date: 11/28/06 :

Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

STATEMENT (ITEM 4) ACCOMPANYING PETITION FOR REVIVAL FOR  
PATENT APPLICATION ABANDONED UNINTENTIONALLY 37CFR1.137(b)

After the Final Rejection mailed 02/13/06, I mailed a Request for Continued Examination (RCE) on 03/20/06 which was received in the U.S. Patent Office on 03/23/06 as evidenced by the attached (Exhibit A): copies of stamped return post card and my cancelled check No. 3461, dated 3/20/06 for the \$395.

As has been now brought to my attention, the RCE form and my fee check submitted on 3/20/06 erroneously and unintentionally referred to this Application as "SN. 09/875,757" instead of the correct "SN. 09/785,757". This apparently resulted in the RCE form being misdirected to another application file in the U.S. Patent Office.

As a result, a Notice of Abandonment was mailed on October 23, 2006.

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Immediately upon receipt of this Notice of Abandonment, on October 27, 2006, an Inquiry Letter was submitted to Group 2638.

When no response to the Inquiry Letter was forthcoming, the staff of the undersigned telephoned Examiner H. S. Sough, and, on November 28, 2006 was advised of the mislabelling of the previously submitted RCE.

Upon learning of this error, Applicant immediately prepared the instant Petition for Revival.

Applicant recognizes that Applicant's error in the Serial Number unintentionally contributed to the Abandonment, and have submitted this petition without delay.

It is respectfully requested that the previously submitted check for \$395 for the RCE, which was cashed by the U.S. Patent Office be applied as the fee for the present RCE.

Respectfully submitted,

*J. B. Kraft 11/28/06*  
J. B. Kraft  
Attorney for Applicant  
Registration No. 19,226  
(512) 473-2303

PLEASE MAIL ALL CORRESPONDENCE TO:

J. B. Kraft  
710 Colorado St., 5C  
Austin, Texas 78701  
(512) 473-2303  
facsimile (512) 473-8803

-6-

PTO/SB/30 (08-03)

Approved for use through 07/31/2008. OMB 0651-0031  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**Request  
For  
Continued Examination (RCE)  
Transmittal**

Address to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application Number	09/785,757
Filing Date	02/20/2001
First Named Inventor	Josh D. KRAFT
Art Unit	3628
Examiner Name	NEA. B NGUYEN
Attorney Docket Number	JDK 2000-002

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**  
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Rely Brief previously filed on

ii. ☐ Other Amendment previously submitted on 2/13/06

b. ☐ Enclosed

i. ☐ Amendment/Reply

iii. ☐ Information Disclosure Statement (IDS)

ii. ☐ Affidavit(s)/ Declaration(s)

iv. ☐ Other

2. **Miscellaneous**

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(l) required)

b. ☐ Other

3. **Fees**

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

The Director is hereby authorized to charge the following fees, or credit any overpayments, to

a. ☐ Deposit Account No. \_\_\_\_\_

i. ☐ RCE fee required under 37 CFR 1.17(e)

ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☐ Other

b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Please apply J.B. KRAFT check No 3461  
for 395 previously send on 3/20/06 +*

*CASHED BY  
USPTO.*

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print/Type)	J.B. KRAFT	Registration No. (Attorney/Agent)	19,226
Signature	<i>J.B. Kraft</i>	Date	11/28/06

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	J.B. KRAFT	Date	12/03/06
Signature	<i>J.B. Kraft</i>		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**J. B. KRAFT**  
**ATTORNEY**  
**710 COLORADO ST. SUITE 5C**  
**AUSTIN, TX 78701**  
 12-96

Date 3/20/06  
 3461  
 95-2/1/130 TX  
 2254

Order of Commissioner for A T E N T S  
 Pay to the Three Hundred and Ninety Five  
 \$ 395.00

**Bank of America**  
 ACH RT 11100023  
 10K002  
 For SN 09/875757 (RCE Fee)  
 1130000234 002142716702W3461  
 100000089500

**Premier Banking**  
 100000089500

[illegible]

Received in USPO  
1 RCE for  
SN 09/875,757  
filed 2/20/01  
inventor: J. P. KRAFT



- 8 -

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DOCKET NUMBER: JPK002

Date: 02/13/06

In re application of: Joshua D. Kraft

Serial No.: 09/875,757

Filed: February 20, 2001

For: PORTABLE AUDIO SYSTEM HOUSING A PRELOADED PURCHASER SELECTED LIBRARY OF MP3 COMPRESSED MUSIC TITLES STORED ON A HARD DISC DRIVE

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, VA 22313-1450

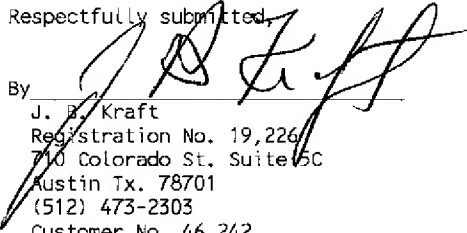
Sir:

Transmitted herewith is an Amendment in the above-identified Application.

X No additional fee is required. No claims exceeding the number originally in the Application have been added.

Respectfully submitted,

By

  
J. B. Kraft  
Registration No. 19,226  
710 Colorado St., Suite 5C  
Austin Tx. 78701  
(512) 473-2303  
Customer No. 46,242